

August 12, 2003

Director, TA&I – FSP
Financial Accounting Standards Board
401 Merritt 7
P.O. Box 5116
Norwalk, CT 06856-5116
(delivery via electronic mail)

Dear Sir or Madam Director:

Re: Proposed FASB Staff Position – Applicability of FASB Statement No. 143, *Accounting for Asset Retirement Obligations*, to Legislative Requirements on Property Owners to Remove and Dispose of Asbestos or Asbestos-Containing Materials (FSP)

Cinergy (NYSE: CIN) is a public utility holding company with regulated operations in Ohio, Indiana, and Kentucky serving approximately 1.5 million electric and 500,000 gas customers. We also have non-regulated operations in the United States and several foreign countries. The Company's net property, plant and equipment has a carrying value of approximately \$9 billion.

As discussed in the draft FSP, existing legislation requires the owner of a building to remove and dispose of asbestos in a certain manner *when* a building is either renovated or demolished. The proposed FSP indicates that this constitutes an asset retirement obligation (ARO) under Statement 143 prior to retirement even if there is no legal obligation to demolish or renovate a structure containing asbestos because (a) it embodies a duty or responsibility, (b) there is little or no discretion to avoid a future transfer or use of assets to satisfy the obligation, and (c) the obligating event has already occurred. Cinergy respectfully disagrees with this conclusion for the reasons discussed below.

The scope of Statement 143 addresses legal obligations associated with the retirement of long-lived assets. Cinergy has interpreted this to mean that Statement 143 applies when there is a legal obligation to retire the asset itself, and not when certain activities are required associated with the voluntary retirement of an asset (i.e., when no legal obligation to retire the asset exists).

When there otherwise is no legal obligation to retire a building containing asbestos, we believe that the obligating event does not occur until the building is, or is legally required to be, renovated or demolished, at which time the National Emissions Standards for Hazardous Air Pollutants becomes applicable. As such, an ARO should not be recorded until this obligating event occurs. If the building is renovated, Cinergy believes that the cost of asbestos removal may be capitalized in accordance with EITF 89-13, *Accounting for the Cost of Asbestos Removal*, if certain criteria are met. If the building is demolished, Cinergy believes that the costs of asbestos removal should be expensed as incurred. To the contrary, if a legal obligation does exist to retire a building containing asbestos, Cinergy believes that there is an ARO for the retirement of the building, and the cost of complying with the regulations regarding asbestos removal should be included in estimating the ARO liability.

Paragraph A15 of Statement 143 addresses a similar issue with the example of bricks in a kiln that are replaced periodically and must be disposed of in a certain manner. It states that the obligation to dispose of the bricks is within the scope of Statement 143. Cinergy believes that in this example, the obligating event for the brick disposal does not occur until the bricks are actually removed. As such, the associated obligation should not be accounted for under Statement 143 until the time the bricks are removed, with the related disposal costs being expensed as incurred. We understood that the FASB Staff had previously concurred with this position and that several CPA firms advocated this interpretation to their clients.

Given this, we feel that even if the Board ratifies this draft FSP in its current form, transition guidance needs to be provided. We would advocate a cumulative effect approach with an effective date of April 1, 2004. We feel that, at best, there is significant diversity in practice in regards to this issue, and at worst, this represents a significant modification to the current majority's interpretation of Statement 143. Given the scope of compiling this information, it is not practicable for companies to comply any sooner than 2004, particularly given that exhaustive new studies may need to be commissioned to compile this information.

Finally, the draft FSP specifically addresses asbestos; however, the issues discussed are similar to other environmental situations, for example, PCB contaminated oil that resides in certain equipment. There is no legal obligation to retire these assets; however, when such assets are removed and/or replaced, special disposal procedures are required to remove the PCB contamination. As such, we feel that further clarification is necessary in the FSP regarding whether the conclusions apply only to asbestos or if the conclusions are applicable to any asset that contains substances requiring special disposal even though there is no legal obligation to retire the asset itself.

Cinergy appreciates the opportunity to comment on this issue.

Sincerely,
David L. Wozny
Controller